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a seal disposed between said body and said cap so as to be capable of forming a substantially fluid-tight seal therebetween.

REMARKS

The Office Action has been carefully considered and the foregoing amendment made in response thereto. The present status of the claims is as follows:

- Claims 1-25 are pending in the application.
- Claims 1-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.
- Claims 1-23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore (U.S. Pat. No. 5,855,289) in view of Julian (U.S. Pat. No. 3,825,143).
- Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore (U.S. Pat. No. 5,855,289) in view of Julian (U.S. Pat. No. 3,825,143) in further view of Neeley et al. (U.S. Pat. No. 5,164,575).

In view of the above amendment and following remarks, reconsideration and withdrawal of the rejection of claims 1-25 are respectfully requested.

1. Claims 1-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the Examiner has deemed the term "anti-torque" in claim 1 as rendering the claim (and those claims depending therefrom) indefinite. The Examiner has noted the use of the term "anti-rotation" in the specification (p. 8, lines 17-19).

The Applicants have amended claim 1 to replace the term "anti-torque" with the term "anti-rotation" as used in the specification (see, e.g., p. 8, lines 17-19). In light of the disclosure in the specification, the Applicants respectfully submit that one of ordinary skill in the pertinent art would be able to ascertain with a reasonable degree of precision and particularity the specific area set out and circumscribed by the claim. Consequently, the Applicants submit that the present amendment to claim 1 renders it sufficiently definite and in compliance with 35 U.S.C. § 112, second paragraph. Because claims 2-25 depend, directly or indirectly, from claim 1, the Applicants further submit that claims 2-25 are now also rendered sufficiently definite.

2. Claims 1-23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore ("Moore") in view of Julian ("Julian"). Applicants respectfully traverse this rejection.

Moore teaches the use of ribs 64, 70 on a lid 34 that are adapted to flex under a centrifugal load and expand the peripheral member 38 of the lid 34 (col. 5, lines 34-36). This expansion increases the sealing force applied by the lid 34, tightening the seal between the gasket 54 and the cylindrical wall 26 (col. 6, lines 43-47). The downward deflection of the ribs 64, 70 also focuses the compressive force applied by the lid 34 away from the center of the stopper 84 onto the area of the stopper 84 that coincides with the annular ring 68 (col. 7, lines 18-20). Thus, the ribs 64, 70 purportedly serve to increase the effectiveness of the two seals when the container 10 is in use. Because the amount of deflection and corresponding expansion increase in proportion to the centrifugal force, the seals are improved as the force increases.

Julian teaches the use of "abutments" 19 disposed on the upper ledge 12 of a container 10 and "lugs" 20 disposed on the underside of a lid 11 (col. 2, lines 18-34). Neither the abutments 19 nor lugs 20 provide an anti-torque function (i.e., neither restrict the movement of the container 10 in response to movement of the lid 11). Rather, when the abutments 19 and lugs 20 are aligned, they provide a lever action when the lid 11 is depressed. This lever action causes the expansion of the lid rim 16, releasing the lid 11 from undercut groove 14 of the container 10 (col. 2, lines 59-66). When the lid 11 is placed on the container 10, the lid 11 overlaps the upper ledge 12 of the container 10. Consequently, in this state, the abutments 19 and lugs 20 are neither visible nor accessible. The abutments 19 and lugs 20 cooperate to create a tamper resistant (i.e., "childproof") container 10 that restricts, but does not foreclose, access to its contents.

The Applicants respectfully submit that there is no suggestion or motivation to combine the Moore and Julian references because each follows an approach that is in conflict with the other. Specifically, Moore teaches the use of a structure that forecloses access to a container when the container is used as designed. Conversely, Julian teaches the use of a structure that allows access to a container when the container is used as designed (e.g., by an adult). Because features that foreclose access contradict features that allow access, a person of ordinary skill would not combine these references.

The combination of the Moore and Julian references is not obvious to one of ordinary skill because there is no reasonable expectation of success in combining this art to arrive at the Applicants' invention. Such a combination would not result in an operable structure. To illustrate, when in use, the lid in Moore sits within a cylindrical wall (Moore figure 7). By virtue of the ribs, the lid forms a tighter contact with the wall when the lid is depressed (i.e., during the application of centrifugal force). Conversely, the lid in Julian surrounds the container (i.e., the lid is not constrained by the container). This allows the rim of the Julian lid to expand and separate from the container. If the abutments and lugs of Julian were combined with the lid structure of Moore, the resulting lid could not be removed. In such a structure, depressing the lid would force its periphery into the container wall. Thus, any lever action promoted by the alignment of the abutments and lugs would be negated by the opposition of the container wall, meaning the lid could not expand to surmount the undercut groove and disengage from the container. Furthermore, even if the lid were used without the container (e.g., with the tubular portion only), the depression of the lid would not cause its rim to expand to allow removal of the lid from the container. This is because the structure allows expansion of the lid circumference at the upper portion of the peripheral member (Moore col. 6, lines 60-63); there is no mention of a corresponding expansion at the lower portion. Without an expansion of the circumference at the lower portion of the peripheral member, the lid could not overcome the plurality of threads on the neck of the tubular portion.

Neither Moore nor Julian teach the limitation of the at least one anti-rotation lug (Applicants' claim 1, as amended herein). The abutments and lugs of Julian have a different function and are inaccessible when the lid is placed on the container. In the Applicants' case, the anti-rotation lugs are disposed to facilitate the application of a torque that restrains the body when the cap is rotated, making attachment and removal of the cap feasible in an automated system. Because the Julian abutments and lugs are inaccessible when the lid is placed on the container, neither the abutments nor lugs may be used in the application of a restraining torque.

The Applicants respectfully submit that Julian fails to cure the deficiencies of Moore with respect to the sole independent claim (claim 1). Applicants submit that claim 1, as amended herein, is allowable and clearly and patentably distinguished over the cited references, either

alone or in combination. Consequently, the Applicants further submit that claims 2-23 and 25, all depending, directly or indirectly, from claim 1 are allowable as well.

The Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1-23 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Julian.

3. Claim 24 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Julian, and in further view of Neeley et al. ("Neeley").

Neely teaches the use of a portable apparatus for blood or other sample collection that places indicia, including a bar code, on a vial (e.g., test-tube). Applicants' claim 24 depends from claim 23, which in turn depends from claim 1. The Applicants respectfully submit that Neeley fails to cure the deficiencies of Moore and Julian with respect to the sole independent claim (claim 1) as discussed above. Because claim 1, as amended herein, is allowable and clearly and patentably distinguished over the cited references, either alone or in combination, the Applicants respectfully submit that claim 24, ultimately depending from claim 1, is allowable as well.

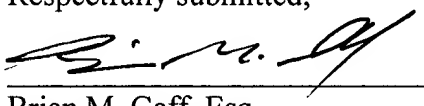
The Applicants respectfully request reconsideration and withdrawal of the rejection of claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Moore in view of Julian, and in further view of Neeley.

CONCLUSION

In view of the foregoing, the Applicants submit that claims 1-25, inclusive, are allowable. The Applicants respectfully request reconsideration of all of the claims and request early favorable action by the Examiner.

If the Examiner believes a telephone interview with Applicants' representative would aid in the prosecution of this application, she is cordially invited to contact Applicants' representative at the number listed below.

Respectfully submitted,



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